

NORTH CAROLINA
WAKE COUNTY

BEFORE THE NORTH CAROLINA
BOARD OF FUNERAL SERVICE
CASE NO. C20-0001

In the matter of:

Monroe Mortuary Services, LLC and
Carletta Mungo Foster,
Respondents.

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NOTICE OF HEARING

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL AGENCY DECISION

In accordance with N.C. Gen. Stat. § 150B-40(d), the North Carolina Board of Funeral Service (hereinafter the “Board”) issues the following Findings of Fact, Conclusions of Law, and Final Agency Decision in this matter.

The record reflects that a quorum of the Board was present at the hearing held and at the time the Board made this decision on September 9, 2020. The record further reflects that Board members Valdus Lockhart and Chris Watson did not participate in the hearing or deliberations of this case because they served on the Board’s Disciplinary Committee at the time this particular matter was reviewed. Catherine E. Lee, General Counsel, appeared for Board staff. Jeff Gray appeared as administrative law counsel for the Board. Respondents appeared at the hearing and were not represented by counsel.

Before the hearing, the following inquiry was read aloud in accordance with state ethics laws: “[d]oes any board member have any known conflict of interest with respect to this matter coming before the Board today? If so, please identify the conflict or appearance of conflict and refrain from any undue or inappropriate participation in the particular matter involved.” No Board members, other than Mr. Lockhart and Mr. Watson, stated that they had a conflict of interest or the appearance of a conflict of interest.

PETITIONER’S LIST OF EXHIBITS

1. Notice of Hearing
2. Return of Service
3. Monroe Mortuary Services Profile
4. Carletta Mungo Foster Profile
5. Tony Autry Profile
6. Consumer Complaint from Tamara Moorer
7. Response from Respondent Foster
8. Board Inspector Investigation Report
9. Death Certificate for Earrick Moorer
10. Board inspector Establishment Inspection Report
11. At-Need File for Earrick Moorer

12. At-Need File for Elizabeth Rarden
13. At-Need File for Betty Misenheimer
14. At-Need File for Albert Bennett, Jr.
15. At-Need File for Cierra Watson
16. At-Need File for Jimmy Howard
17. At-Need File for Walter Jones
18. At-Need File for Jimmie Matthews
19. At-Need File for Hubert Crowder
20. At-Need File for Mason Thompson
21. At-Need File for Rachel Autry
22. At-Need File for Jerline Henry
23. At-Need File for Curtis Watson
24. At-Need File for Loretta Fullen
25. At-Need File for James Autry
26. At-Need File for Bernice Staton
27. Resignation Letter from Carletta Mungo Foster
28. Notification of Change of Manager
29. Relevant Statutes and Rules
30. Subpoena to Ms. Moorer

RESPONDENT MONROE MORTUARY SERVICES, LLC'S LIST OF EXHIBITS

1. Letter from Judy L. Jordan, Notary Public, dated August 11, 2020
2. Letter from Dr. Maggie L. DeMoss, dated August 11, 2020
3. Letter from Mary Jones-Welth, dated August 10, 2020

RESPONDENT CARLETTA MUNGO FOSTER'S LIST OF EXHIBITS

1. Statement from Carletta Mungo Foster
2. Hand-written annotations on Notice of Hearing by Carletta Mungo Foster
3. Statement of Funeral Goods and Services Selected for Ms. Nancy V. Massey

FINDINGS OF FACT

1. Respondent Monroe Mortuary Services, LLC (hereinafter "Respondent Funeral Home") is licensed by the Board as Funeral Establishment No. 817 and, therefore, is subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code, and the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984).
2. Respondent Carletta Mungo Foster (hereinafter "Respondent Individual") is licensed by the Board as Funeral Director No. 3652 and, therefore, is subject to Chapter 90 of the North

Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code, and the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984).

3. For all times relevant to this Notice of Hearing, Respondent Foster served as the licensed manager of Respondent Funeral Home.
4. Mr. Tony Levander Autry is sole member-manager of Respondent Funeral Home. Mr. Autry is not licensed by the Board as a funeral director or funeral service licensee. Mr. Autry previously was registered as Funeral Service Trainee No. 201788, beginning on September 1, 2016. Said traineeship expired on September 1, 2019. Mr. Autry did not certify his traineeship within thirty (30) following the conclusion of his traineeship, as required by N.C. Gen. Stat. § 90-210.25(a)(4)b. and 21 N.C. Admin. Code 34B .0120.
5. On or about December 31, 2019, Board staff received a complaint against Respondents from Tamara Moorer (hereinafter “Complainant”). Board staff provided Respondents with an opportunity to respond to the Complainant’s allegations, and Respondents did so on or about March 23, 2020.
6. Evidence obtained in this matter established the following facts:
 - a. On November 7, 2019, Complainant made arrangements with Respondents for imminent-need funeral services on behalf of her gravely ill husband.
 - b. During the arrangements conference, Mr. Autry advised Complainant of pricing and service details, while Respondent Foster observed.
 - c. Thereafter, all of Complainant’s interactions were with unlicensed representatives of Respondent Funeral Home, including Mr. Autry.
 - d. On November 16, 2019, the Complainant’s husband passed away.
 - e. The decedent’s services were provided on November 25, 2019 and Complainant paid for the services in full on November 27, 2019.
 - f. Thereafter, Respondents failed to file the decedent’s death certificate with the Mecklenburg County Registrar in a timely fashion. Upon information and belief, Respondents did not file the decedent’s death certificate until sometime after December 27, 2019. The Complainant did not receive the decedent’s death certificate until March 6, 2020.
7. A Board inspector conducted an investigation into the allegations set forth in the Complainant’s complaint and performed a funeral establishment inspection of Respondent Funeral Home.

8. Evidence obtained in that funeral establishment inspection established that:
 - a. Mr. Autry forged Respondent Individual's name to the statement of funeral goods and services selected ("SFGSS") that was provided to Complainant for her husband's services. Mr. Autry also forged Respondent Individual's name to the death certificate for the Complainant's husband;
 - b. Mr. Autry prepared SFGSS and discussed arrangements for funeral services with multiple consumers between 2018 and 2020, sometimes during the period that he was a trainee without his supervisor, Respondent Individual, present and later while no licensed funeral director or funeral service licensee was present; and
 - c. Mr. Autry signed his own name to SFGSS for multiple consumers, without obtaining the signature of a licensed funeral director or funeral service licensee on said documents.

CONCLUSIONS OF LAW

1. Respondents are subject to Chapter 90 of the North Carolina General Statutes and Title 21, Chapter 34 of the North Carolina Administrative Code and the standards set forth in Funeral Industry Practices, 16 C.F.R. § 453 (1984).
2. Respondents are subject to jurisdiction before the Board.
3. The Board is authorized under Article 3A, Chapter 150B of the North Carolina General Statutes to hear this matter.
4. The acts and omissions of Respondent Monroe Mortuary Services, LLC described in Paragraphs 1-8 constitute fraud or misrepresentation in the operation of a licensee's business, in violation of N.C. Gen. Stat. § 90-210.25(e)(1)b.
5. The acts and omissions of Respondents described in Paragraphs 1-8 constitute aiding and abetting an unlicensed person to perform services under Article 13A, Chapter 90, of the North Carolina General Statutes.
6. The acts and omissions of Respondents described in Paragraphs 1-6 constitute violating or cooperating with others to violate any of the provisions of Article 13A, Chapter 90, of the North Carolina General Statutes and any rules and regulations of the Board, as follows:
 - a. N.C. Gen. Stat. § 90-210.25(e)(2), which provides that, at the time funeral arrangements are made and prior to the time of rendering the service and providing the

- merchandise, a funeral director or funeral service licensee shall give or cause to be given to the person or persons making such arrangements a written statement duly signed by a licensee of said funeral establishment showing the price of the service as selected and what services are included therein.
- b. 21 NCAC 34B .0103(d), which provides that a licensed supervisor shall be present in the same room whenever a resident trainee accepts any initial payment or negotiates any contract for funeral services either at-need or pre-need with the public.
 - c. 21 NCAC 34B .0103(e), which provides that a licensed supervisor shall review with the purchaser any contract negotiated by a resident trainee, and then the licensed supervisor shall obtain the purchaser's signature on the contract in the licensed supervisor's presence.
7. The acts and omissions of Respondents described in Paragraphs 1-8 constitute violating or cooperating with others to violate any provision of Article 4 or 16 of Chapter 130A of the General Statutes or any rules or regulations promulgated under those Articles as amended from time to time, as follows:
- a. N.C. Gen. Stat. § 130A-112, which provides that a funeral director or person acting as such who first assumes custody of a dead body shall submit a notification of death to the local registrar in the county where death occurred, within 24 hours of taking custody of the body.
 - b. N.C. Gen. Stat. § 130A-115, which provides that the funeral director or person acting as such who first assumes custody of a dead body shall file the death certificate with the local registrar within five (5) days after the death occurs.
8. One or more of the violations described above were committed by any officer, director, manager, partner, operator, or member of Respondent Funeral Home or by any person, employee, or agent with the consent of any person, firm, or corporation operating it. Pursuant to N.C. Gen. Stat. § 90-210.25(d)(4), the Board has the authority to revoke, suspend, or refuse to issue or renew the funeral establishment permits of Respondent Funeral Home, to place Respondent Funeral Home on probation, and/or to assess a civil penalty not to exceed \$5,000.00.
9. Respondent Individual committed one or more of the violations described above. Pursuant to N.C. Gen. Stat. §§ 210.25(e)(1), the Board has the authority to suspend, revoke, or refuse to issue or renew the funeral service license of Respondent Individual. However, this Board finds that Respondent Individual remains fit to practice. Therefore, pursuant to N.C. Gen. Stat. § 90-210.25(e)(2), the Board has the authority to place Respondent Individual on probation, to require satisfactory completion of remedial or education training, and to assess a civil penalty not to exceed \$5,000.00.

FINAL AGENCY DECISION

The North Carolina Board of Funeral Service hereby issues the following decision:

1. The At-Need Establishment Permit of Respondent Monroe Mortuary Services, LLC shall be suspended for a period of two years, beginning on the date that this Final Agency Decision takes effect, provided that said suspension shall be stayed on the following terms and conditions:
 - a. Within thirty (30) days following the effective date of this Final Agency Decision, Respondent Monroe Mortuary Services, LLC shall pay a civil penalty of Two Thousand Five Hundred Dollars (\$2,500.00) to the Civil Penalty and Forfeiture Fund, in accordance with Article 31A of Chapter 115C of the North Carolina General Statutes. The stay of the suspension shall be automatically lifted upon failure to timely pay the civil penalty set forth herein.
 - b. During the period of stayed suspension as set forth above, the licensure of Respondent Monroe Mortuary Services, LLC shall be on probationary status and it must comply with all statutes and rules governing the practice of funeral service.
 - c. During the period of stayed suspension as set forth above, a Board Inspector shall conduct an inspection of the Respondent Monroe Mortuary Services, LLC every six (6) months, beginning from the date that this Final Agency Decision takes effect. The stay of the suspension shall be automatically lifted upon a finding of any substantial violation of the statutes and rules governing the practice of funeral service, in the opinion of the Board inspector.
2. The Funeral Director License of Respondent Carletta Mungo Foster shall be suspended for a period of two years, beginning on the date that this Final Agency Decision takes effect, provided that said suspension shall be stayed on the following terms and conditions:
 - a. During the period of stayed suspension as set forth above, the licensure of Respondent Carletta Mungo Foster shall be on probationary status and she must comply with all statutes and rules governing the practice of funeral service.
3. The Board shall retain jurisdiction under Article 3A, Chapter 150B for all administrative hearings held in connection with, or pursuant to, this Final Agency Decision. If the Board receives evidence of any violations of the Board's statutes and rules identified during the period of stayed suspension, or any violation of the terms and conditions of this Final Agency Decision, the Board shall schedule a show cause hearing for a determination of the violations. If the Board determines that a violation has occurred, the Board may impose such disciplinary action as it determines is appropriate and is authorized by law.

4. Pursuant to N.C. Gen. Stat. § 150B-45(a)(2), Respondents have thirty (30) days from the date that they receive this Final Agency Decision to file a Petition for Judicial Review. The Petition for Judicial Review must be filed in the Superior Court of the county where the person aggrieved by the administrative decision resides, or in the case of a person residing outside the State, in the county where the contested case which resulted in the final decision was filed. Since this is an administrative appeal, no additional evidence will be taken. If a Petition is filed, a Superior Court Judge will review the Final Agency Decision to determine whether there were any legal errors in the Final Agency Decision.
5. This Final Agency Decision shall take effect upon service of Respondents, in a manner consistent with N.C. Gen. Stat. § 150B-42(a).

By order of the North Carolina Board of Funeral Service, this, the 23 day of September, 2020.

By: 
Phillip Mark Blake
N.C. Board of Funeral Service

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Findings of Fact, Conclusions of Law, and Final Agency Decision was served upon the Respondent by United States Postal Service, Certified Mail, Return Receipt Requested, postage prepaid, addressed to:

Deborah Jackson Brice, Manager
Monroe Mortuary Services, LLC
704 Walkup Avenue
Monroe, NC 28110

Tony L. Autry, Registered Agent
Monroe Mortuary Services, LLC
704 Walkup Avenue
Monroe, NC 28110

Carletta Mungo Foster
9927 Rockmeadow Dr
Charlotte, NC 28216

This, the 23 day of September, 2020.



Catherine E. Lee
General Counsel